



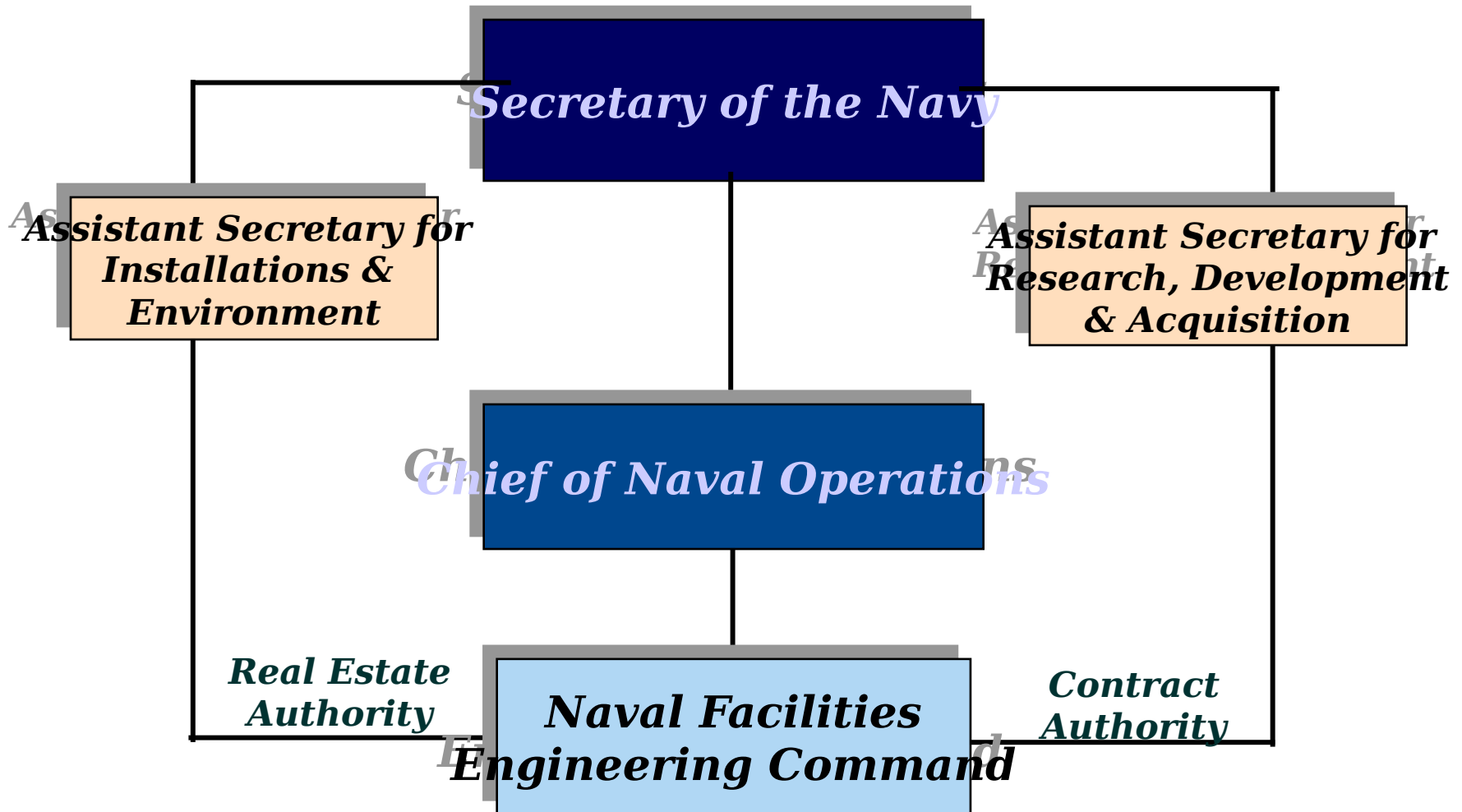
# OUTLEASING PROGRAM

*New Opportunities under the Revised  
Military Leasing Act*

24 April 2001



# Real Estate and Contract Aut





# Military Leasing Act

*Title 10 United States Code Section 2667*

- Statutory authority for leasing of DON real property
- Provides direction on structure and form of Lease
- Provides direction on collection and use of proceeds
- Expanded and revised by section 2812 of the Defense Authorization Act for FY01 (U.S.P.L 106-398)



# Military Leasing Act

(major revisions)

- Expansion of in-kind consideration allowed
  - Type
  - Location
  - Flexibility and Procedural Relief
- Expansion of the Use of Cash Proceeds
  - Depositing Proceeds
  - Procedural limitations
- Annual Report



# Military Leasing Act (Unaffected Principles)

- Applies to property under the control of the Department.
- Applies only to property that is not excess.
- Term may not exceed 5 years (unless authorized by SECNAV).
- May provide for first right to buy.
- Shall provide for the right to revoke (unless waived by SECNAV).
- Consideration (either cash or in kind) must be in an amount no less than fair market value of the lease interest.
- Competition
- McKinney Act (homeless provider screening)



# Change in pre-Lease determination

- The Secretary no longer needs to make a preliminary determination the parcel to be leased is "**not for the time needed**" by the department.
- Allows relocation of an activity or mission to make land available for outlease purposes



# Use of Outleasing Proceeds...

	<i>Cash</i> (Subject to project authorization)	<i>In-kind</i>
<i>Where</i>	Installation and military department <del>wide</del>	Installation <del>and</del> department <b>wide (no restriction)</b>
<i>For What</i>	<ul style="list-style-type: none"> <li>.. Maintenance</li> <li>.. Repair</li> <li>.. <b>Restoration, including environmental</b></li> <li>.. <b>New construction</b></li> <li>.. <b>Acquisition</b></li> <li>.. <b>Improvement</b></li> <li>.. <b>Protection</b></li> <li>.. <b>Alteration</b></li> <li>.. <b>Other services</b></li> </ul>	<ul style="list-style-type: none"> <li>.. Maintenance</li> <li>.. Repair</li> <li>.. <b>Restoration, including environmental</b></li> <li>.. <b>New construction</b></li> <li>.. <b>Acquisition</b></li> <li>.. Improvement</li> <li>.. Protection</li> <li>.. <b>Alteration</b></li> <li>.. <b>Other services</b></li> </ul>

Items in bold are additions to current authorizations

**Total received must equate to at least Fair Market**



# Flexibility and Procedural Relief

- Statutory Military Construction Authorization requirements (*section 2802*):
  - Do not apply to In-Kind consideration accepted under this section
- Real property transaction notification requirements (*Section 2662*):
  - Do not apply.
  - 30-day congressional notification required prior to any commitment to accept In-Kind consideration in excess of \$500,000.00



# Annual Report

DoD is to provide a detailed report to Congress on the executed leases along with an accounting of the consideration received and how used.



# ROLES

- **INSTALLATION / REGION:** identifies requirements, requests Real Estate services, budgets for project costs and holds plant account.
- **EFD/EFA:** executes RE projects
- **NAVFACENGCOM:** provides RE policy, obtains project approvals as required from CNO, ASN, DoD and Congress.



# THE PROCESS

- Creation of a Conceptual Business Plan
  - Consider Best Use of Asset(s).
    - Avoid “shotgun” Leasing.
  - Define the Objective for Use.
    - Explore compatibility of potential new uses with existing use.
    - Consider long term impact of private use.
    - Consider type of “in-kind” consideration
  - Consider Security, Utilities and other Site/Base-wide Issues.
  - Market Study and Feasibility Analysis.
  - Development Issues: NEPA, Environmental, Local Zoning
- Secure DASN concurrence.



# THE PROCESS cont'd

- Real Estate project Team established upon DASN (I&E) approval of Concept Paper
  - Members: Warranted Real Estate Contracting Officer, Real Estate Counsel, Technical Support from all stakeholders.
  - Tasks & Functions: RFP Development, Industry Forum, Public Discussion, Pre-proposal Conferences, Selection Process, Environmental Issues, Appraisal to determine Fair Market Value, Lease Negotiation, DASN (I&E) Approval of Lease and Award.
  - Time: Approximately 12 - 18 months from DASN approval of concept depending on project size /complexity



# Practical Considerations

- Requirement for Full and Fair Competition
- Use consistent with local off base community uses
- Implications of Long Term Leases
  - Excess determinations
  - Termination Liability
  - Encumbers disposal ability
- Show Stoppers
  - Litigation (perceived lack of opportunity/fair competition)
  - Political (often relates to intended re-use)



# EFA NORTHEAST TEAM

- CAPT Joe Zorica - Commanding Officer
- CDR Bob Morro - Operations Officer
- Mr. Jim Root - New England Team Leader
- Mr. Ralph Lombardo, Esq. - Counsel
- Mr. Gregory Preston - Level III (unlimited) Real Estate Contracting Officer



# QUESTIONS